

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LAWRENCE LANDRUM,

Petitioner, : Case No. 1:96 CV 641
Sixth Circuit Case Nos.06-4194, 06-4251

- VS -

District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

CARL S. ANDERSON, Warden,

Respondent. :

ORDER ADOPTING REPORT AND RECOMMENDATIONS ON CERTIFICATE OF APPEALABILITY

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #228), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on December 7, 2006, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Petitioner’s Motion for Certificate of Appealability (Doc. No. 227) be granted. The Court certifies the following eight issues as appealable under the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. No 104-132, 110 Stat. 1214)(the “AEDPA”):

1. Trial counsels' deficient performance in the trial phase prejudiced Landrum.
2. The trial court erred when it did not order the prosecution to grant Swackhammer immunity.

3. The district court erred when it denied Petitioner's motion to supplement the record with the affidavit of reconstruction expert, Wayne Hill.
4. The trial court erred in the sentencing phase when it excluded, testimony that detailed Landrum's role in the offense.
5. The Ohio Supreme Court erred when it "reweighed" testimony which was never adduced and the jury never heard.
6. The trial court erred when it denied counsels' repeated requests for a continuance.
7. Defense counsel performed deficiently in the mitigation phase to the prejudice of Landrum.
8. Lawrence Landrum did not receive the benefit of a reasonably competent expert in the mitigation phase.

The Clerk shall certify a copy of this Order to the United States Court of Appeals for the Sixth Circuit.

December 11, 2006.

s/THOMAS M. ROSE

Thomas M. Rose
United States District Judge